



Patent Application
Attorney Docket No. PC11032A

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF: Matthew Merrill Hayward, :
et al.

APPLICATION NO.: 09/872,731 : Examiner: Liu, Hong
FILING DATE: June 1, 2001 : Group Art Unit: 1624
TITLE: HYGROMYCIN A DERIVATIVES :

Hon. Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Sir:

DECLARATION UNDER RULE §131

I, Robert G. Linde, declare that:

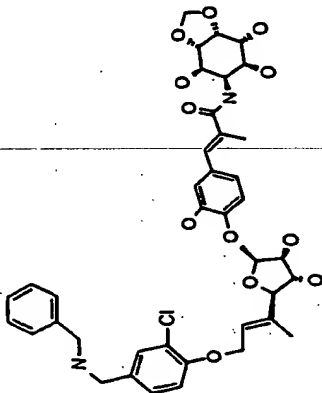
1. I have been working for Pfizer, Inc. since August 3, 1992, primarily in the area of discovering new antibiotics. My current title is Senior Principal Scientist.
2. I am a co-inventor of the above-identified application and I am aware that claims 1-8 stand rejected under 35 USC 103(a) as obvious over Hayward et al., WO 00/32616. I am also aware that claims 1-8 stand rejected under the judicially created doctrine of obvious-type double patenting over claims 1-8 and 13-16 of U.S. Patent No. 6,245,745, which is the U.S. counterpart of WO 00/32616.
3. Together with the other co-inventors, I unexpectedly find that compounds of formula 1 in the present application possess superior antibacterial activities in the presence of 50% human serum when "each R^3 is independently selected from C_6-C_{10} aryl or 5-10 membered heteroaromatic, and the heteroaromatic and aryl moieties of the foregoing R^3 groups are substituted by a $-CHR^9NR^{11}R^{12}$ group and optionally substituted by 1 to 4 R^4 groups."
4. The testing data comparing compounds of the present invention and those of WO 00/32616 and/or U.S. Patent No. 6,245,745 are attached hereto as Exhibit 1. The testing data

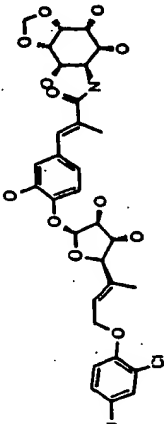
show, for example, that the inhibitory activity to Stau1095 (S. aureus 1095) by compound CP-733798, which is claimed in the present application, is eight times more resistant to the presence of 50% human serum than compound CP-628295, a compound disclosed in WO 00/32616 and claimed in U.S. Patent No. 6,245,745. Other examples also show superior properties of the claimed compounds in the presence of 50% human serum. I was told that such superior properties are evidence of the nonobviousness of the claimed compounds over WO 00/32616 and/or U.S. Patent No. 6,245,745.

5. I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

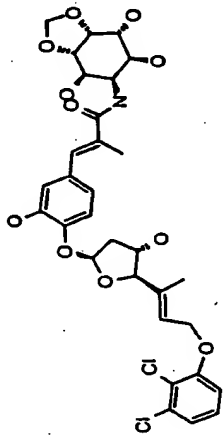

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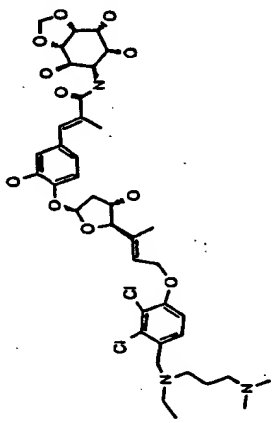
5/11/2004
DATE

Compound	CP-733798
	
Chemist	CTRL
G2897A	Compound Tested (4)
STau1095	25.000
STau1095 +SER	100.000

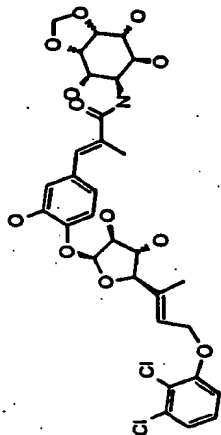
Compound	CP-628295
	
Chemist	CTRL
G2897A	Compound Tested (3)
STau1095	1.563
STau1095 +SER	50.000

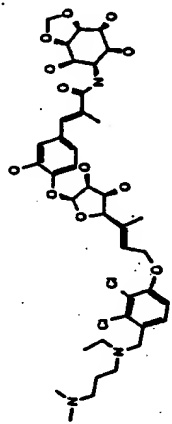


Compound	CP-657447
	
Chemist	G2897A
CTRL	
Compound Tested (1)	
Stau1095	1.560
Stau1095 +SER	50.000

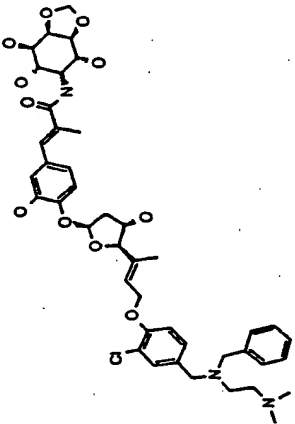
Compound	CP-774911
	
Chemist	G2897A
CTRL	
Compound Tested (3)	
Stau1095	6.250
Stau1095 +SER	3.125

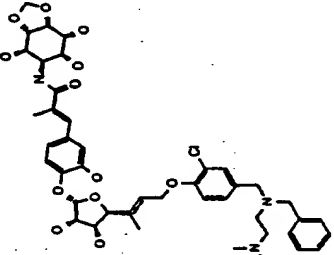


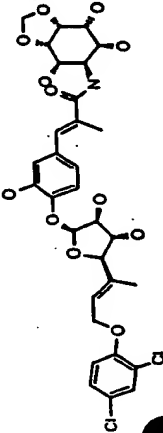
Compound	CP-629677
	
Chemist	G2897A
	CTRL
Compound Tested (1)	
STau1095	3.120
STau1095 +SER	100.000

Compound	CP-761667
	
Chemist	G2897A
	CTRL
Compound Tested (5)	
STau1095	25.000
STau1095 +SER	6.250



Compound	CP-774950
	
Chemist	G2897A
	CTRL
Compound Tested (3)	
STau1095	3.125
STau1095 +SER	1.250

Compound	CP-745917
	
Chemist	G2897A
	CTRL
Compound Tested (2)	
STau1095	6.250
STau1095 +SER	10.000

Compound	CP-628295
	
Chemist	G2897A
	CTRL
Compound Tested (3)	
STau1095	1.563
STau1095 +SER	50.000

